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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,033	02/04/2004	Brian Moon	1251.185	5698
7590	11/30/2006			
Michael A. Slavin, Esq. McHale & Slavin, P.A. 2855 PGA Boulevard Palm Beach Gardens, FL 33410				EXAMINER AYRES, TIMOTHY MICHAEL
				ART UNIT 3637 PAPER NUMBER

DATE MAILED: 11/30/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/773,033	MOON ET AL.
	Examiner	Art Unit
	Timothy M. Ayres	3637

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 05 September 2006.
 2a) This action is FINAL. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-17 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 1-17 is/are rejected.
 7) Claim(s) _____ is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on 05 September 2006 is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention; and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 5 ,12, and 14 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The spring tabs are not shown or described with enough detail so that one of ordinary skill in the art can ascertain how they are constructed and connected to the apertures. Specifically it is unclear as to how are the spring tabs "constructed and arranged" to cooperate with an aperture.

3. Claims 1-17 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Regarding claim 1, a plurality of drawer guides and at least one drawer is claimed. A plurality of drawer guides implies that there is at least two guides, but claim 1 and in specific the phrase "said drawer guides constructed and arranged to cooperate with at least one drawer to provide support and prevent tipping and canting of said at least one drawer". The specification does not enable one skilled in the art to make a

cabinet with only two drawer guides to provide support and prevent tipping and canting. The issue also arises in claim 3 and additionally there are at least two drawers in claim 3, making it unclear as to how two guides or even four guides can perform those functions for two drawers.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 1-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

6. Claim 1 recites the limitation "said wall cabinet" in the first line in paragraph 4. There is insufficient antecedent basis for this limitation in the claim.

7. Claim 5 recites the limitation "The drawer cabinet assembly" in the preamble in line 1. There is insufficient antecedent basis for this limitation in the claim.

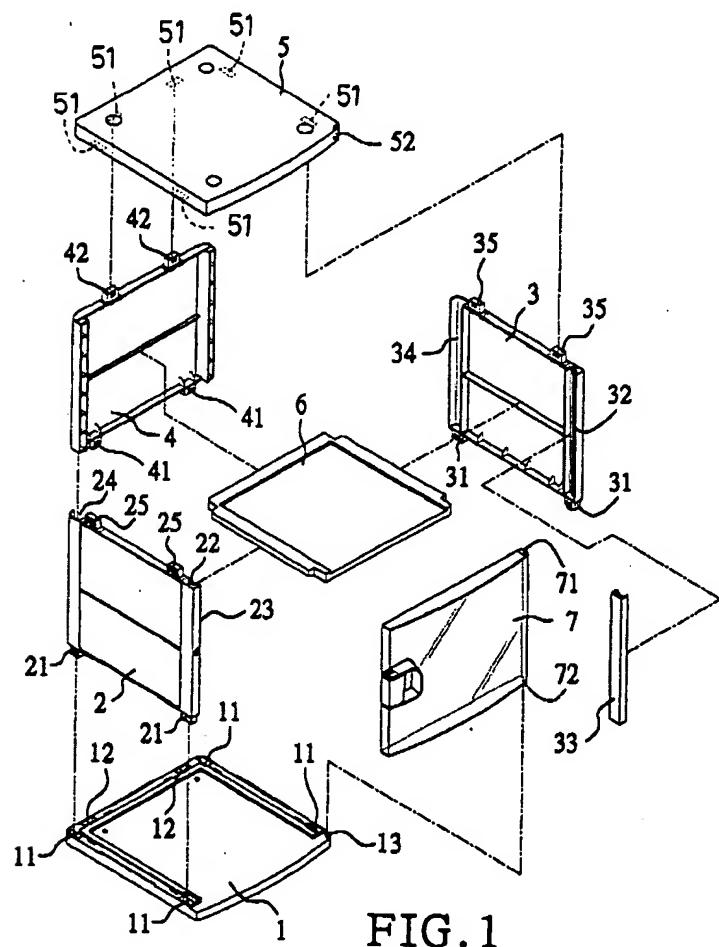
8. Claim 3 recites the limitation "said drawers" in line 5-6. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

9. Claims 1, 11-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6,474,759 to Hsu in view of US Patent 4,193,649 to Sharon. Hsu teaches a plastic cabinet that can have drawers as seen in figure 11. The cabinet is made up of a base panel (1), top panel (5), left side panel (2), right side panel (3), and back panel (4).

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The top and bottom panels (1,5) connect to the side and back panels (2,3,4) with a means for attaching (11, 12 ,51, 21,25,41,42,31,35). The means for attaching (11, 12 ,51, 21,25,41,42,31,35) is posts (35, 42, 25, 21, 31, 41) on the side and back panels (2,3,4) that have integrally formed spring tabs (A') that communicate with locking sockets (11,12, 51) in the base and top panels (1, 5) as seen in figure 1 and 7 below.



Hsu '759 Figure 1

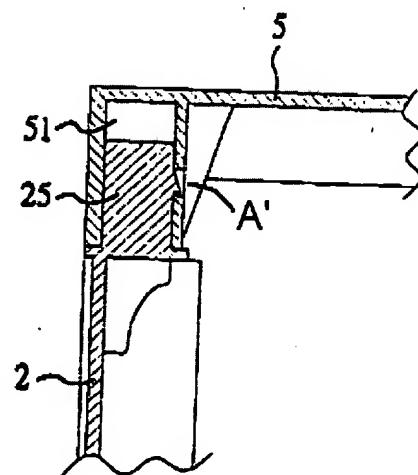


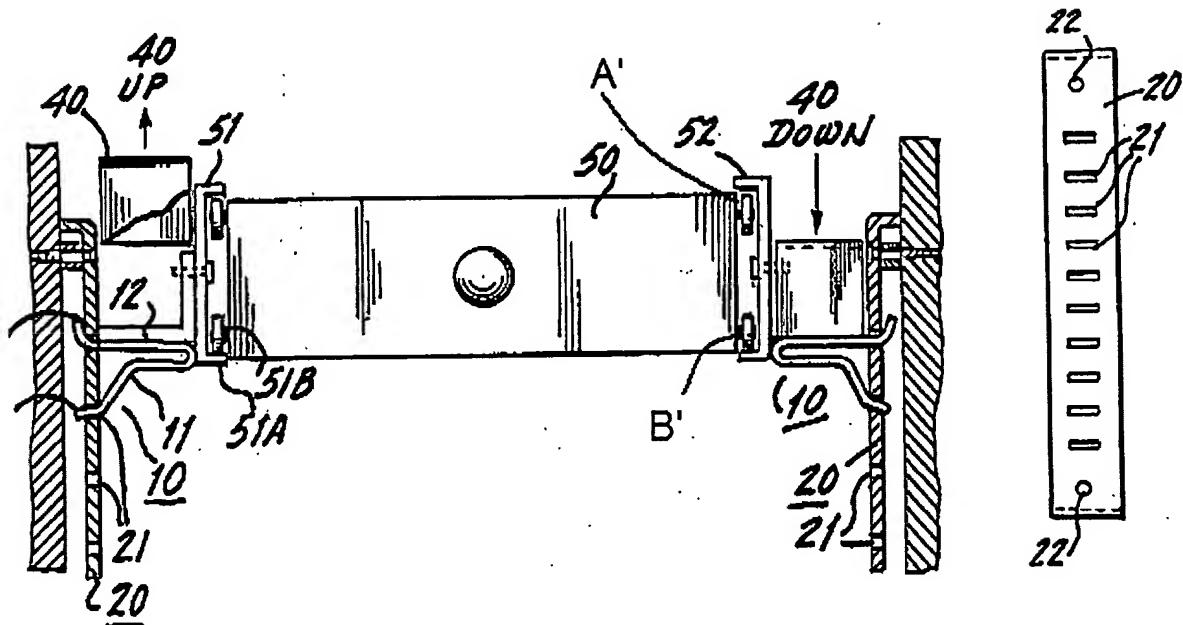
FIG. 7

10. Hsu does not expressly disclose the locking posts on the top and bottom panels, a plurality of guides that fit in to apertures formed in vertical rails, a combination of

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various sized drawers, and the drawer with upper and lower rollers. Sharon teaches drawer glide system that includes drawer glides (51, 52) that have clips (10) to insert into apertures (21) on a vertical rail (20). The glides (51,52) are considered to have a general L-shape. This system allows for different sized drawers to be used in the cabinet. (Col. 1, lines 39-44). The drawer has an upper and lower roller (A', B') to engage with the drawer glide (51, 52). At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify the cabinet of Hsu by adding the vertical rails and drawer glide structure as taught by Sharon to allow for adjustable drawers (Sharon '649, Col. 1, lines 39-44)

11. Hsu in view of Sharon discloses the claimed invention except the posts are on the side and back panels and the sockets are on the top and bottom panels. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to have the posts extend from the top and bottom panels and have the sockets on the side and back panels, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.



Sharon '649 Figure 4

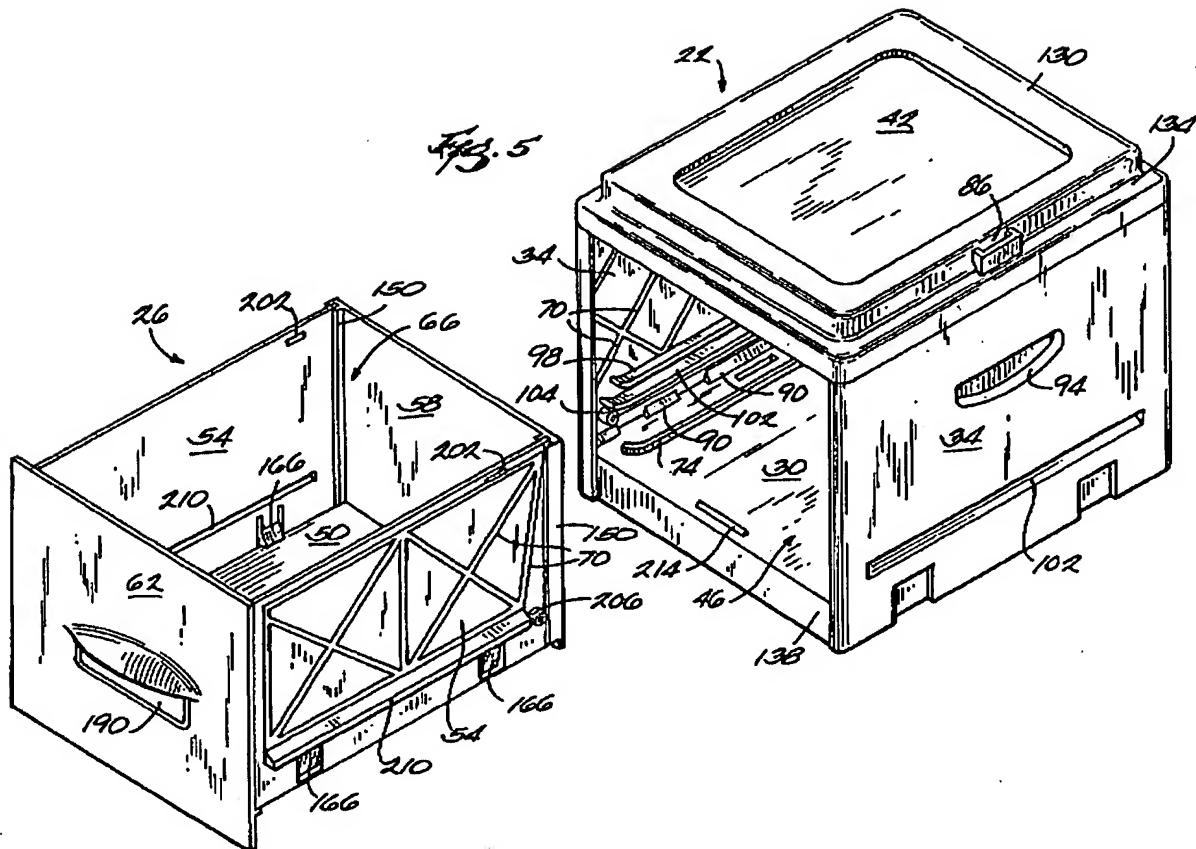
Sharon'649 Figure 2

12. Claims 2, 3, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6,474,759 to Hsu in view of US Patent 4,193,649 to Sharon as applied to claims 1 and 11-16 above, and further in view of US Patent 5,496,105 to Czarnecky. Hsu in view of Sharon discloses every element as claimed and discussed above except the pair of vertical rails integrally molded on each inner surface of the side panels and the base panel including cross bracing. Czarnecky teaches side panels (18) of a drawer cabinet with inner surfaces (30) having integral vertical rails with slots (40, 42). As seen in figure 9, a cross bracing (110) is used to strengthen the bottom of the drawer. At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify the drawer cabinet of Hsu in view of Sharon by having the vertically rails be

integral molded in the side panels as taught by Czarnecky to allow for easier cleaning and with less individual parts easier assembly and cheaper manufacturing.

13. Regarding claim 17, at the time of the invention it would be obvious for a person of ordinary skill in the art to modify the cabinet of Hsu in view of Sharon by using the teaching of strengthening a base panel of drawer as taught by Czarnecky and to apply that teaching to give more strength to the base panel of the cabinet.

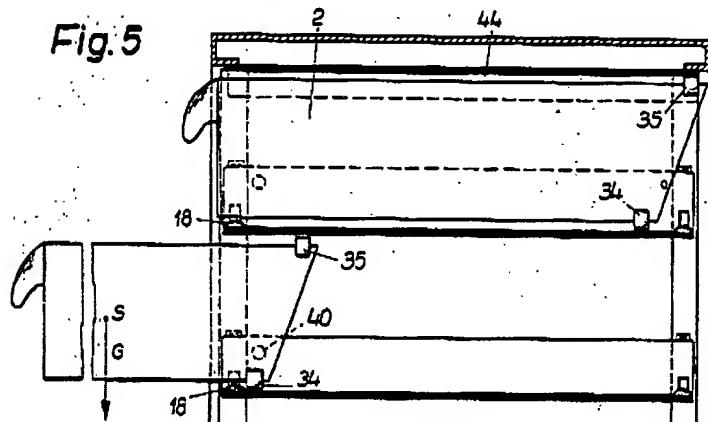
14. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6,474,759 to Hsu in view of US Patent 4,193,649 to Sharon as applied to claims 1 and 11-16 above, and further in view of US Patent 6,193,340 to Schenker. Hsu in view of Sharon discloses every element as claimed and discussed above except the base panel including cross bracing. Schenker teaches cross braces (70) formed in the sidewalls (54) and bottom (50) of the drawer (26) to help strengthen it as seen in figure 4. At the time of the invention it would be obvious for a person of ordinary skill in the art to modify the cabinet of Hsu in view of Sharon by using the teaching of strengthening a base panel and side panel of drawer as taught by Schenker and to apply that teaching to give more strength to the base panel of the cabinet.



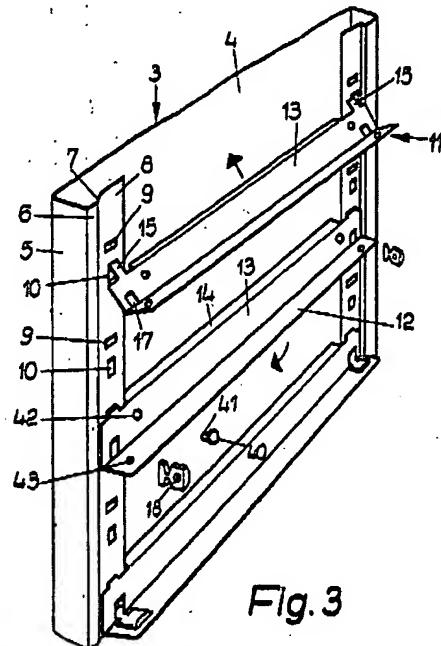
Schenker '340 Figure 5

15. Claims 1-4 and 11-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 3,572,874 to Hassel in view of US Patent 6,474,759 to Hsu. Hassel teaches a cabinet (1) with drawers (2). The drawer glides (11) are mounted with locking posts (16,15) that have a conjugate shape and extend through apertures (9) in integral vertical rail (8) that are formed on the side wall (3). The drawer glides (11) are L-shaped with a vertical leg (13) and horizontal leg (12). The drawers (2) have slides (34,35) and the rear portion of the drawer (2). A locking member (18) extends through an opening

(17) in the vertical leg (13) of the drawer glide (11) and an aperture (10) on the vertical rail (8) to secure the drawer glide (11) in place. The upper slides (35) contact the bottom of the drawer glide (11) that is above the drawer (2) and the lower slides (34) on the drawer (2) contact a drawer glide (11) that is relatively level with the drawer (2).



Hassel '874 Figure 5



Hassel '874 Figure 3

16. Hassel does not expressly disclose specific attachment means of the panels of the cabinet and rollers on the drawer.

17. Hsu teaches a plastic cabinet that can have drawers as seen in figure 11. The cabinet is made up of a base panel (1), top panel (5), left side panel (2), right side panel (3), and back panel (4). The top and bottom panels (1,5) connect to the side and back panels (2,3,4) with a means for attaching (11, 12 ,51, 21,25,41,42,31,35). The means for attaching (11, 12 ,51, 21,25,41,42,31,35) is posts (35, 42, 25, 21, 31, 41) on the side

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and back panels (2,3,4) that have integrally formed spring tabs (A') that communicate with locking sockets (11,12, 51) in the base and top panels (1, 5) as seen in figure 1 and 7 above. At the time of the invention it would have been obvious for a person of ordinary skill in the art to modify the cabinet of Hassel by making the panels out of plastic and adding the posts and sockets as taught by Hsu to be easier to assemble and sturdier.

18. Hassel in view of Hsu does not expressly disclose rollers on the drawers. The Office takes official notice that it is well known to use rollers in drawer construction since they provide less friction than slide elements. Therefore at the time of the invention it would have been obvious for a person of ordinary skill in the art to modify the drawer of Hassel in view of Hsu by replacing the slide elements (35,34) with rollers to make it easier to slide the drawer by reducing the friction between the drawer and the cabinet.

19. Hassel in view of Hsu discloses the claimed invention except the posts are on the side and back panels and the sockets are on the top and bottom panels. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to have the posts extend from the top and bottom panels and have the sockets on the side and back panels, since it has been held that a mere reversal of the essential working parts of a device involves only routine skill in the art. *In re Einstein*, 8 USPQ 167.

20. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 3,572,874 to Hassel in view of US Patent 6,474,759 to Hsu as applied to claims 1-4 and 11-16 above, and further in view of US Patent 6,193,340 to Schenker. Hassel in

view of Hsu discloses every element as claimed and discussed above except the base panel including cross bracing. Schenker teaches cross braces (70) formed in the sidewalls (54) and bottom (50) of the drawer (26) to help strengthen it as seen in figure 4. At the time of the invention it would be obvious for a person of ordinary skill in the art to modify the cabinet of Hassel in view of Hsu by using the teaching of strengthening a base panel and side panel of drawer as taught by Schenker and to apply that teaching to give more strength to the base panel of the cabinet.

21. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 3,572,874 to Hassel in view of US Patent 6,474,759 to Hsu as applied to claims 1-4 and 11-16 above, and further in view of US Patent 5,496,105 to Czarnecky. Hassel in view of Hsu discloses every element as claimed and discussed above except the base panel including cross bracing. Czarnecky teaches side panels (18) of a drawer cabinet with inner surfaces (30) having integral vertical rails with slots (40, 42). As seen in figure 9, a cross bracing (110) is used to strengthen the bottom of the drawer. At the time of the invention it would be obvious for a person of ordinary skill in the art to modify the cabinet of Hassel in view of Hsu by using the teaching of strengthening a base panel as taught by Czarnecky and to apply that teaching to give more strength to the base panel of the cabinet.

Response to Arguments

22. Applicant's arguments, with respect to Hsu in view of Hassel and Schenker, filed 9/05/06, have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Hassel in view of Hsu.

23. Applicant's arguments with respect to Hsu and Sharon filed 9/05/06 have been fully considered but they are not persuasive. The drawing objections are withdrawn since the spring tabs are shown, but they are not of a detail to enable one skilled in the art to understand how to make them or how they are connected to apertures in the panels.

The combination of Hsu and Sharon would not destroy the operation of Hsu. Hsu teaches a construction for a cabinet with drawers, shelves and/or door. The proposed modification would change the way the structure of how the drawers connect to the cabinet, but that is the whole point and motivation of the modification. The drawers of the combination of Hsu in view of Sharon will still slide out of the cabinet just as was done before the modification. It is within one skilled in the art to use the drawer construction of Sharon while keeping the drawer face of Hsu to keep the aesthetics of the cabinet. Hsu and Sharon are silent with respect the function of the drawer guides because it is inherent that the purpose of drawer guides is to support a drawer and allow it to be slide in and out of enclosure. In regards to the drawer cabinet requiring separate fasteners, the limitation is the drawer cabinet, which is considered the enclosure or the side, rear, top and bottom panels, which Hsu discloses as using a

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spring tab to connect posts and apertures. Additionally the claim limitation is in the alternative, meaning that the cabinet can be shipped fully assembled and therefore would not require separate fasteners.

The rejection with Hsu in view of Hassel and Schenker has been removed and a rejection with Hassel in view of Hsu has been added. To help advance prosecution a response to the arguments of Hsu in view of Hassel will be done even though the rejection is different. Hsu is formed of plastic and Hassel is made from sheet metal. The claim limitation of plastic is given in the preamble of claim 1, which would just require the structure to be capable of being made from plastic. The phrase "integrally molded" only imparts that the vertical rails are formed as one piece with the panel and not that the panel is made from plastic. The examiner contends that is within the level of one skilled in the art to make a sheet metal side panel out of plastic using a known method of forming plastics such as injection molding, blow molding, or milling. Any of the methods can shape a panel with an integral vertical rail on the panel of Hsu in view of Hassel. Note: It has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. See MPEP § 2144.04. US Patent 5,496,105 to Czarnecky is a secondary reference to show one possible way this could be done. In regards to claim 17, Schenker teaches using cross bracing on the base panel of the drawer and not the base panel of the cabinet. It would be obvious to one skilled in the art to use the teaching of strengthening a base panel of drawer to apply that teaching to give more strength to the base panel of the cabinet.

Conclusion

24. This action is made non-final due to the change in rejection because of the arguments with respect to Hsu in view of Hassel and Schenker, filed 9/05/06, a new ground(s) of rejection is made in view of Hassel in view of Hsu.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy M. Ayres whose telephone number is (571) 272-8299. The examiner can normally be reached on MON-THU 8:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

TMA *tma*
11/22/06

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PRIMARY EXAMINER
A-273-037